

RESOLUTION NO. 80-19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF RIDGECREST APPROVING AND ORDERING THE
VACATION OF A PORTION OF SOUTH GRANDE WAY,
RESERVING CERTAIN EASEMENTS

WHEREAS, the City Council of the City of Ridgecrest heretofore passed a resolution declaring its intention to vacate a portion of South Grande Way described hereinafter, subject to the reservation of certain easements and rights-of-way, also hereinafter described; and

WHEREAS, notice of the time and place for hearing all persons interested in or objecting to said proposed vacation was given in the manner provided by law; and

WHEREAS, said hearing having been held on March 19, 1980, at which time all persons interested in or objecting to said proposed vacation were heard, and any objections read into records,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RIDGECREST
RESOLVES:

1. That it is found and determined that the portion of South Grande Way described hereinafter is unnecessary for present or prospective public street purposes.

2. That the following described portion of South Grande Way is herewith ordered abandoned and vacated:

In Tract 1524, in the City of Ridgecrest, County of Kern, State of California, as recorded in Book 7 of Maps, on February 20, 1950, in the office of the Kern County Recorder's Office and more particularly described as follows:

That portion of Grande Way (formerly called Sierra Grande Blvd.) as recorded in said Tract, said Grande Way lies between Lots 1 and 60 of said Tract and is 50 feet wide and runs north and south, the westerly 40 feet to be reserved for utility easements.

3. That the aforesaid described portion of South Grande Way is subject to and the City does hereby reserve and except from such vacation any permanent easements and right at any time, or from time to time, to construct, maintain, operate, replace, remove, and renew sanitary sewers and storm drains and appurtenant structures in, upon, over and across any part vacated and pursuant to any existing franchises or renewals thereof, or otherwise, to construct, maintain, operate, replace, remove, renew and enlarge lines of pipe, conduits, cables, wires, poles and other convenient structures, equipment and

March 19, 1980

fixtures for the operation of gas pipe lines, telegraphic and telephone lines, railroad lines, and for the transportation or distribution of electric energy, petroleum and its products, ammonia, water, and incidental purposes, including access and the right to keep the property free from inflammable materials and wood growth, and otherwise protect the same from all hazards in, upon and over the street portion vacated.

4. That a certified copy of this resolution be recorded by the City Clerk in the office of the Kern County Recorder.

APPROVED AND ADOPTED this 19th day of March, 1980, by the following vote:


AYES: Mayor Chieze, Councilmembers Grossman, Karlberg and Smith.

NOES: Councilmember Hockett.

ABSENT: None.

ATTEST:


DON J. J. CHIEZE, MAYOR


JACQUELINE C. REED, CITY CLERK

PERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF KERN

EAST KERN RIDGEC

DATE: Thursday, May 15, 1980

COURT MEET AT 4:30 P. M.

DEPARTMENT NO.

PRESENT: HON. GERALD K. DAVIS

JUDGE

J. D. FINCH

DEPUTY

NO

REPORTER

NO

TITLE:

GEORGE C. LEHMAN, ET AL

-VS-

CITY COUNCIL OF THE CITY OF RIDGECREST,

GEORGE HUCEK, Real Party in Interest.

COUNSEL:

Roger I. Stein

Daniel J. Tobias
Kenneth M. Byrum

THIS IS
A
M.O.

NATURE OF PROCEEDINGS:

ACTION NO. 166191

PETITION FOR WRIT OF MANDATE HERETOFORE SUBMITTED ON APRIL 18, 1980.

DISPOSITION:

1. The Action taken by the City Council is adjudicatory rather than legislative; hence sufficient findings must be set out to satisfy the provisions of C.C.P. 1094.5. See City of Rancho Palos Verdes v. City Council, 59 CA3d, 369.
2. No findings at all were prepared when Resolution 80-19 was adopted on March 19, 1980. That is a clear violation of the rule set out Topanga Association for a Senic Community v. County of Los Angeles, 11 Cal 3d, 5
3. The later findings of fact were prepared on April 9, 1980. The Council considered many matters not presented at the public hearing. The April 9, 1980, hearing cannot in any way be considered a public hearing.
4. The pretended findings of fact are inadequate and do not conform to the requirements of the Topanga case.
5. Resolution 80-19 is hereby set aside as null and void.
6. Should this matter come again before the Council, particular attention should be given to the requirements of City of Palos Verdes and Topanga. All evidence to be considered must be received at public hearings. The findings must "bridge the analytic gap between the raw evidence and the ultimate decision or order." The evidence to support the finding concerning traffic accidents is non-existent.

Counsel for plaintiffs claim that the findings must be prepared at the public hearing. That is not the law. Findings do not have to be prepared in public, but they must be based on evidence received or submitted at the public hearing.

Let the peremptory writ of mandate issue commanding respondent City Council to void Resolution 80-19.

GKD.

MINUTES

This Resolution (No. 80-19) repealed by Court action -
Lehman vs. City of Ridgecrest (see claim file folder)

Reso. 80-19

Repealed

